

SUMMARY REPORT OF INVESTIGATION¹**I. EXECUTIVE SUMMARY**

Date/Time of Incident:	November 21, 2015, 10:05 p.m.
Location of Incident:	XXXX W. Harrison Street (CPD XX District Station), Chicago, Illinois
Date/Time of COPA Notification:	November 24, 2015, 10:04 a.m.

The Complainant, Subject 1, sustained facial lacerations while in custody during a disturbance that occurred at a CPD facility. Subject 1 alleges that a CPD member slammed his head into a wall and that two other CPD members who were present took no action to intervene or to report the incident. The CPD members deny any misconduct, though they acknowledge that Subject 1 sustained his injuries as a result of one member's use of force. COPA has determined that there is insufficient evidence to prove or to disprove that misconduct occurred.

II. INVOLVED PARTIES

Involved Member #1:	Sergeant A, Star #XXXX, Employee ID# XXXXX; DOA: XX/XX/1999, Unit of Assignment: XXX (detailed to 059 – Marine Operations); DOB: XX/XX/1969; MS
Involved Member #2:	Officer A, Star #XXXX, Employee ID# XXXXXX; DOA: XX/XX/2013; Unit of Assignment: XXX; DOB: XX/XX/1986; MWH
Involved Member #3:	Officer B, Star #XXXX, Employee ID# XXXXXX; DOA: XX/XX/2013; Unit of Assignment: XXX; DOB: XX/XX/1988; FW
Subject #1:	Subject 1, DOB: July XX, 1977, MB

III. ALLEGATIONS

Member	Allegation	Finding
Sergeant A	On November 21, 2015, at 10:05 p.m., at XXXX W. Harrison Street, Chicago, Illinois, the accused used excessive physical force against Subject 1, in violation of CPD Rules of Conduct 1, 8, and 9.	NOT SUSTAINED
Member	Allegation(s) (Continued)	Finding

¹ On September 15, 2017, the Civilian Office of Police Accountability (COPA) replaced the Independent Police Review Authority (IPRA) as the civilian oversight agency of the Chicago Police Department. Therefore, this investigation, which began under IPRA, was transferred to COPA on September 15, 2017, and the recommendation(s) set forth herein are the recommendation(s) of COPA.

Officer A	On November 21, 2015, at 10:05 p.m., at XXXX W. Harrison Street, Chicago, Illinois, the accused witnessed another member's use of excessive physical force against Subject 1 but failed to take action to stop or to report that misconduct, in violation of Rules 5 and 22.	NOT SUSTAINED
Officer B	On November 21, 2015, at 10:05 p.m., at XXXX W. Harrison Street, Chicago, Illinois, the accused witnessed another member's use of excessive physical force against Subject 1 but failed to take action to stop or to report that misconduct, in violation of Rules 5 and 22.	NOT SUSTAINED

IV. APPLICABLE RULES AND LAWS

Rules

1. Rule 1, CPD Rules of Conduct: Violation of any law or ordinance
 2. Rule 5, CPD Rules of Conduct: Failure to perform any duty.
 3. Rule 8, CPD Rules of Conduct: Disrespect to or maltreatment of any person, while on or off duty.
 4. Rule 9, CPD Rules of Conduct: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
 5. Rule 22, CPD Rules of Conduct: Failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department
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CPD Directives

1. CPD General Order G03-02-02, Force Options (Effective Date 11 March 2015; subsequently revised).
 2. CPD General Order G08-01-02, Specific Responsibilities Regarding Allegations of Misconduct (Effective Date 17 March 2013) (among other things, requiring a member who observes misconduct to make an immediate notification to a supervisory member and to prepare a written report to his/her unit commander).
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Federal Laws

1. U.S. Constitution, Fourth Amendment.

V. INVESTIGATION²

a. Interviews

1. **Complainant Subject 1** gave an audio recorded interview on November 30, 2015.³ In summary, not verbatim (except where indicated), and in pertinent part, Subject 1 then stated:

Subject 1 had been arrested for traffic related offenses on November 21, 2015, along with his adult son, Civilian 1.⁴ After processing, Subject 1, Civilian 1, and two CPD members later determined to be Officers A and B were in a room located at the CPD's XXX District Station located at XXXX West Harrison Street in Chicago. Subject 1 and Civilian 1 were handcuffed to a wall. A disturbance ensued when Civilian 1 refused to remove strings from his clothing and when the officers attempted to remove them over Civilian 1's objections. Among other things, Subject 1 then stated, "If y'all tasin my son and he don't get back up, I'm suin' the shit outcha all." A third CPD member, later determined to be Sergeant A,⁵ then entered the room. Sergeant A then unlocked the handcuff that was attaching Subject 1 to the wall. Sergeant A said, "I'm tired of hearin' your fuckin' mouth. You got a smart mouth." Sergeant A then slammed Subject 1 against the wall causing him to sustain facial lacerations. Subject 1 denied that he acted aggressively toward Sergeant A.

2. **Officer B** gave an audio recorded statement on April 6., 2017.⁶ In summary, not verbatim, and in pertinent part,

Officer B confirmed that Subject 1 had been arrested for traffic related offenses on November 21, 2015, along with Civilian 1, and that, after processing, Subject 1, Civilian 1, Officer B and Officer A were in a room located at the CPD's XXX District Station. According to Officer B, the room was approximately 7 by 9 feet in area; Subject 1 and Civilian 1 each had one hand cuffed to a bench within the room. Officer B confirmed that a disturbance ensued when Civilian 1 refused to remove strings from his clothing and when the officers attempted to remove them over Civilian 1's objections. According to Officer B, at the time that Sergeant A entered the room, she and Officer A were trying to handcuff Civilian 1's free hand, Civilian 1 was resisting those efforts, and she was then positioned in such a way that she did not see Sergeant A. Officer B denied hearing Subject 1 or Sergeant A say anything, though she allowed for the possibility of auditory exclusion. She denied seeing Sergeant A's interaction with Subject 1. She stated that she turned around only to see Subject 1 standing, handcuffed, and bleeding from the head.

²IPRA and COPA conducted a thorough and complete investigation. The following is a summary of the material evidence gathered by IPRA and COPA and relied upon by COPA in our analysis.

³Attachment #10 is a transcript of that interview.

⁴COPA has been unable to obtain Civilian 1's cooperation in connection with this investigation. See Attachments ## 33, 42, 45, 46, and 104.

⁵Sergeant A's rank was Police Officer at the time of the incident. He was subsequently promoted.

⁶Attachment #87 is a transcript of that statement.

3. **Officer A** gave an audio recorded statement on April 19, 2017.⁷ His account of the events largely mirrors Officer B's account. Like Officer B, Officer A denied seeing Sergeant A's interaction with Subject 1, claiming that his back was turned to Sergeant A and Subject 1 at the time. Like Officer B, Officer A denied having any memory of hearing any exchange of words between Subject 1 and Sergeant A. In general, Officer A's account of the events does not materially differ from that of Officer B, except that Officer A stated that Subject 1 was on the ground when Officer A first turned and saw Sergeant A in the room.

4. **Sergeant A** gave an audio recorded statement on March 20, 2018.⁸ In his statement, Sergeant A explained that he was in the XXX District Station for reasons unrelated to the Subject 1 / Civilian 1 arrest. He stated that he went to the room occupied by Subject 1, Civilian 1, Officer B, and Officer A because he heard a disturbance occurring there. Sergeant A stated that he then saw Officers B and A struggling with Civilian 1 and that he entered the room to remove Subject 1 because he saw that one of Subject 1's hands was free and that one of the officer's sidearms was exposed. Sergeant A stated that he then unlocked the handcuff that secured Subject 1 to a bench and that he attempted to lead Subject 1 out of the room. According to Sergeant A, Subject 1 then pulled away aggressively, causing Subject 1's head to make contact with a wall within the room. Sergeant A denied that Subject 1 lost his footing. He denied verbally abusing Subject 1.

b. Documentary Evidence

1. A **Report of Proceedings** in People v. Subject 1, Case No. XX M1 XXXXXX, Circuit Court of Cook County, Illinois,⁹ shows that Sergeant A and Subject 1 both gave sworn testimony on May 17, 2017, in a criminal trial arising out of the incident. Their trial testimony did not materially differ from the statements that they made in their interviews, which are described above.

VI. ANALYSIS

There is insufficient evidence to prove or to disprove that misconduct occurred.

There is no material dispute concerning the facts of the events that immediately preceded the alleged misconduct. Each of the four persons whose statements are summarized above agree that (1) that Officers A and B were in an XXX District Station room with Subject 1 and Civilian 1, who were seated on a bench; (2) that one of Subject 1's hands was handcuffed to the bench or to a wall and that Subject 1's other hand was free; (3) that a disturbance ensued when Civilian 1 objected to Officers A's and B's attempts to remove strings from Civilian 1's clothing; and (4) that Sergeant A then entered the room. Sergeant A and Subject 1 both agree that Officers A and B were then occupied with Civilian 1, and that Sergeant A then unlocked the handcuff that attached Subject 1 to the bench or the wall.

⁷Attachment #92 is a transcript of that statement.

⁸Attachment #108 is an audio recording of that statement.

⁹Attachment #105 is a copy. At the conclusion of the trial, Subject 1 was convicted of battery upon Sergeant A and of obstructing or resisting a peace officer.

Concerning the events that transpired immediately afterward, all agree that Subject 1 sustained facial injuries as a result of a physical interaction with Sergeant A and that the contact between Sergeant A and Subject 1 was momentary. However, there is insufficient evidence to prove that the interaction and contact did or did not involve misconduct. Sergeant A's claims that he uncuffed Subject 1 for the legitimate purpose of separating him from the disturbance and that Subject 1 then offered resistance to him are plausible. Nevertheless, even if COPA were to assume that Subject 1 did in fact offer physical resistance, COPA cannot determine from the evidence that Sergeant A probably did or probably did not use more force than necessary to restrain Subject 1 under the circumstances. Nor is there sufficient evidence that would permit COPA to conclude that Officers A and B did or did not observe conduct that necessitated reporting. Given their proximity to Sergeant A and Subject 1 during the moments in question, COPA cannot credit their contentions that they did not visually observe the interaction.

VII. CONCLUSION

Based on the analysis set forth above, COPA makes the following findings:

Member	Allegations	Finding
Sergeant A	On November 21, 2015, at 10:05 p.m., at XXXX W. Harrison Street, Chicago, Illinois, the accused used excessive physical force against Subject 1, in violation of CPD Rules of Conduct 1, 8, and 9.	NOT SUSTAINED
Officer A	On November 21, 2015, at 10:05 p.m., at XXXX W. Harrison Street, Chicago, Illinois, the accused witnessed another member's use of excessive physical force against Subject 1 but failed to take action to stop or report that misconduct, in violation of Rules 5 and 22.	NOT SUSTAINED
Officer B	On November 21, 2015, at 10:05 p.m., at XXXX W. Harrison Street, Chicago, Illinois, the accused witnessed another member's use of excessive physical force against Subject 1 but failed to take action to stop or report that misconduct, in violation of Rules 5 and 22.	NOT SUSTAINED

Approved:

 [Name]
 Deputy Chief Administrator – Chief Investigator

 Date

Appendix A

Assigned Investigative Staff

Squad#:	Squad #XX
Investigator:	COPA Investigator A
Supervising Investigator:	COPA Supervising Investigator A
Deputy Chief Administrator:	COPA Deputy Chief Administrator A